

REMARKS/ARGUMENTS

1. In the above referenced Office Action, the Examiner issued an election/restriction requirement for claims 1-15. The species grouping of the claims is:

Species I: Figures 1A – 1B, claim 1 and 6;

Species II: Figures 2A – 2B, claim 2;

Species III: Figures 3A – 3B, claims 1, 2, 6, 9, and 10;

Species IV: Figures 4A – 4B, claims 1, 2, 3, 5, 6, 9, and 10;

Species V: Figure 5, claims 1, 2, 4, 6, 7, 9, 10, and 11;

Species VI: Figures 6A – 6B, claims 1, 2, 6, 8, 9, 10, and 12;

Species VII: Figures 7A – 7B, claims 1, 2, 4, 6, 7, 9, 10, and 11;

Species VIII: Figures 8A – 8B, claim 13.

The Examiner also noted that claims 14 and 15 appear not to read on any of the species.

2. The applicant respectfully requests reconsideration of the election/restriction pursuant to 37 CFR § 1.143, provides the reasons therefore below, and, for the purposes of this response, elects claims 1, 2, 4, 6, 7, 9, 10, and 11. If the Examiner rejects the applicant's request for reconsideration, the applicant requests that the Examiner make the election/restriction final so that the applicant may petition the Director to review the requirement for election/restriction.

MPEP 806.04(d) states, in part, "in general, a generic claim ... must comprehend within its confines the organization covered in each of the species", and MPEP 806.04 (e) states, in part, that "a claim may include two or more of the disclosed embodiments within the breadth and scope of definition (and thus be designated *a generic or genus claim*)". In accordance with this definition and as grouped by the Examiner, claim 1 is a generic claim. Thus, election to a species is inappropriate.

35 USC 112, fourth paragraph, states, in part, “a claim in dependent form shall contain ... a further limitation of the subject matter claimed ... [and] shall be construed to incorporate by reference all the limitations of the claim to which it refers”. In the present patent application, claims 2-8 properly dependent from claim 1, claims 10-12 properly dependent from claim 9, and claims 14 and 15 properly dependent from claim 13. Each independent claim corresponds to at least one disclosed embodiment of the invention. Thus, by definition, dependent claims 2-8, 10-12, and 14-15 provide additional limitations to the at least one embodiment covered by independent claims 1, 9, and 13. As such, independent claims 1, 9, and 13 and dependent claims 2-8, 10-12, and 14-15 are providing varying breadth and/or scope of definition of the at least one disclosed embodiment.

MPEP 806.03 states, in part, “where the claims of an application define the same essential characteristics of a *single* disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition”.

Accordingly, claim 1-15 should not be subject to restriction since they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

The Examiner is invited to contact the undersigned by telephone or facsimile if the Examiner believes that such a communication would advance the prosecution of the present invention.

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF MAILING

37 C.F.R. 1.8

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